

REMARKS

This application has been carefully studied and amended in view of the Office Action dated October 24, 2008. Reconsideration of that action is requested in view of the following.

Parent Claim 7 has been amended to more clearly define the invention. Claims 4 and 18 have been amended for consistency with parent Claim 7.

It is respectfully submitted that parent Claim 7 and its dependent Claims 3-4, 8 and 18 are patentable over the prior art and in particular over Petzelt in view of Thomas and Zapol and Adams and Giller. Parent Claim 9 is directed to a method of treating a patient characterized in the use of a xenon spasmolytic in the form of a combination medicament which comprises xenon and a further spasmolytic. Claim 7 also sets forth details regarding the xenon containing gas mixture. In order to advance the prosecution of this case Claim 7 has been amended so that it is directed to the treating of a patient who is suffering from "coronary vasospasms or bronchial spasms". Support for this amendment is found in the specification. For example, with reference to published patent application 2005/0244508 which is the published form of this application, paragraph [0007] refers to "the treatment of...coronary vasospasms." Paragraph [0018] refers to the "xenon-containing gas mixture are also used to produce a bronchospasmolytic".

In view of the amendments to parent Claim 7, Claim 7 should clearly distinguish over the hypothetical combination of five different references. As now defined in Claim 7 the method is directed to treating a patient with a xenon-containing spasmolytic, wherein xenon is used an effective coronary or bronchial spasmolytic for the treatment of patients suffering from coronary vasospasms or bronchial spasms. Petzelt teaches using xenon or xenon containing gas mixtures for treating neurointoxications. However, Petzelt is completely silent about any advantageous effect of xenon when using it as a gas mixture in combination with further spasmolytic as an effective therapeutic agent for the treatment of bronchial spasms and coronary vasospasms. Such an effect of xenon is not disclosed in the remaining secondary references. Accordingly, parent Claim 7 would not be obvious in view of this prior art.

Application No.: 10/517,722

mg-2513 (00143-00244)

For the reasons submitted above it is respectfully submitted that parent Claim 7 and its dependent claims are patentable and this application should be passed to issue.

Respectfully submitted,

Dated: *January 5, 2009*

By 
Harold Pezzner

Registration No.: 22,112
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, 19899
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

655367